



Arizona State Senate **Background Brief**

September 29, 2006

Note to Reader:

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ARIZONA LIQUOR LICENSES

INTRODUCTION

The regulation of liquor in Arizona precedes statehood. The 1864 Howell Code assessed liquor taxes on vendors of wines and distilled spirits and represented Arizona's first liquor regulations. However, congressional passage of the Volstead Act of 1919 enacted a national Prohibition and eliminated the need for liquor regulation. With the repeal of the Volstead Act and the end of Prohibition in 1933, the 21st Amendment to the U.S. Constitution gave individual states the right to choose their own system for regulating alcoholic beverages. Arizona placed the responsibility for liquor regulation with the Temperance Enforcement Commission under the State Tax Commission until 1939, when the Arizona Legislature established the Department of Liquor Licenses and Control (Department).

The courts and the Legislature have stated that the objective and purpose for establishing the Department center on protecting the public health, safety and welfare. The Legislature, in Laws 1984, Chapter 322, defined the purpose of the Department: "... to regulate the liquor industry through the license control process, collect fees and taxes for the maintenance of government and enforce statutes in order to maintain the health and welfare of the community." As such, the Department licenses, investigates and regulates the production, distribution and sale of alcoholic beverages throughout the state. Separate from the Department is the Arizona State Liquor Board (Liquor Board), whose members are appointed by the Governor, subject to Senate confirmation. The Liquor Board hears appeals on some of the Director's disciplinary decisions; and when cities, towns or counties disapprove or make no recommendation on a new liquor license, the Director is required to refer the final decision to the Liquor Board.

LIQUOR LICENSES

In order to regulate the production, distribution and sale of alcoholic beverages, the Department issues 17 license types, commonly referred to by a series number. For example, a domestic microbrewery license is known as a Series 03 license. An application is required for any of the 17 licenses along with payment of the required fee and surcharges, when applicable. Each license must be renewed annually (A.R.S. §§ 4-201 and 4-209). A license is issued only after satisfactory showing of the capability,

qualifications and reliability of the applicant and, with the exception of club licensees, that the public convenience requires and that the best interest of the community will be substantially served by the issuance of the license. A separate license is required for each specific type of business (A.R.S. § 4-203).

In-State Producer – Series 01

An in-state producer license is available for the manufacturing or production of spirituous liquor in Arizona (A.R.S. § 4-209). A person who holds a Series 01 license may sell beer produced by the producer if the producer also holds an on-sale retail license and the retail sale of the beer is on or adjacent to the premises of the producer. Additionally, a producer may sell wine produced by the producer at the producer's licensed premises (A.R.S. § 4-243.02).

Out-of-State Producer – Series 02

An out-of-state producer license allows an out-of-state producer, exporter, importer or rectifier to ship spirituous liquor into Arizona to a licensed wholesaler (A.R.S. § 4-209). The out-of-state producer is required to comply with the alcoholic beverage statutes as if it were an in-state licensee (A.R.S. § 4-250.01). An out-of-state producer is prohibited from selling its products to an Arizona wholesaler at a cost higher than the lowest price at which the item was sold by the producer or supplier, or any other person, to any wholesaler anywhere in any other state or to any other state (A.R.S. § 4-250).

Domestic Microbrewery – Series 03

A domestic microbrewery licensee produces or manufactures at least 5,000 gallons, but less than 620,000 gallons, of beer annually and may sell its beer produced or manufactured on the premises for consumption on or off the premises. A domestic microbrewery may make sales and deliveries of its beer directly to retail licensees that are under common ownership with the microbrewery in any amount and may also sell and deliver up to 93,000 gallons of its beer directly to other licensed retailers annually (A.R.S. § 4-205.08).

Wholesaler – Series 04

A wholesaler may warehouse and distribute spirituous liquor for sale to licensed retailers (A.R.S. § 4-209). A wholesaler must purchase the spirituous liquor from the primary source of supply (A.R.S. § 4-243.01).

Government – Series 05

A government license may be issued to any county, city, town, state university or the Arizona Exposition and State Fair Board upon application by the county, city, town, university or board. The license allows the holder to sell and serve spirituous liquor solely for consumption on the premises for which the license is issued. A separate license is required for each premises upon which spirituous liquors are served (A.R.S. §§ 4-209 and 4-205.03).

Bar – Series 06

A bar license is an on-sale retailer's license to sell all spirituous liquors primarily by individual portions to be consumed on the premises and in the original container for consumption on or off the premises (A.R.S. §§ 4-101 and 4-209).

Beer and Wine Bar – Series 07

A beer and wine bar license is an on-sale retailer's license to sell beer and wine primarily by individual portions, to be consumed on the premises and in the original containers for consumption on or off the premises (A.R.S. §§ 4-101 and 4-209).

Conveyance – Series 08

A conveyance license allows: an operating railroad company to sell all spirituous liquors in individual portions or in the original containers on its passenger trains; an operating airline company to sell or serve spirituous liquors solely in individual portions on its passenger planes; or a boat operating in the waters of this state to sell all spirituous liquors in individual portions or in the original containers for consumption on the boat. Boat operators must designate a dock as the home port for the boat, have a capacity of

80 or more persons and have a current coast guard certification (A.R.S. §§ 4-205.07 and 4-209).

Liquor Store – Series 09

A liquor store license allows a licensee to sell all spirituous liquors, only in the original unbroken package, to be taken away from the premises of the retailer and consumed off the premises (4-101 and 4-209).

Beer and Wine Store – Series 10

A beer and wine store license allows the licensee to sell beer and wine (no other spirituous liquor), only in the original unbroken package, to be taken away from the premises of the retailer and consumed off of the premises (A.R.S. §§ 4-101 and 4-209).

Hotel-Motel – Series 11

A hotel-motel license allows any Arizona hotel or motel to sell and serve spirituous liquor solely for consumption on the premises if the hotel or motel has a restaurant where food is served on the premises (A.R.S. §§ 4-205.01 and 4-209).

Restaurant – Series 12

A restaurant license may be issued to any restaurant in this state that is regularly open for the serving of food to guests for compensation, has suitable kitchen facilities connected with the restaurant for keeping, cooking and preparing foods required for ordinary meals, and derives at least 40 percent of its gross revenue from the sale of food. The restaurant licensee may sell and serve spirituous liquor solely for consumption on the licensed premises (A.R.S. §§ 4-205.02 and 4-209).

Domestic Farm Winery – Series 13

A domestic farm winery licensee produces at least 200 gallons of wine but not more than 40,000 gallons of wine annually. If the domestic farm winery produces between 200 and 20,000 gallons of wine annually, the winery may sell and deliver its wine directly to consumers and retailers. Domestic farm wineries may also sell

wine for consumption on or off the premises to a consumer who is physically present at the winery. Additionally, domestic farm wineries may hold a beer and wine bar (07), beer and wine store (10) and a restaurant (12) liquor license, under specified circumstances (A.R.S. § 4-205.04).

Club – Series 14

A club licensee may sell all spirituous liquors for consumption on the licensed premises to bona fide members of the club. Clubs include veteran and fraternal organizations and golf, social and airline clubs (A.R.S. §§ 4-101 and 4-209).

Special Event – Series 15

A special event license is a temporary license that may be issued to a political party, a campaign committee supporting a candidate for public office or a ballot measure, an organization formed for a specific charitable or civic purpose, a fraternal organization in existence for over five years with a regular membership or a religious organization.

The issuance of the license is subject to the approval of the local governing body where the event is to be held (A.R.S. § 4-203.02). According to Department rule, a special event license may not be granted for more than ten days in a calendar year for a qualifying organization and events must be held on consecutive days and at the same location or additional licenses are required.

Wine Festival and Wine Fair – Series 16

A wine festival license allows a domestic farm winery to provide sampling of domestic farm winery products on the wine festival premises, to sell its products for consumption on the premises and to sell its products in the original containers for consumption off of the premises. The issuance of the wine festival license is subject to the approval of the local governing body where the event is held. Each domestic farm winery may be issued up to 25 festival licenses annually, for up to a total of 75 calendar days per winery.

With permission of county or state fair organizers, a wine fair license allows a domestic farm winery to provide samples of domestic farm winery products on the fair premises, sell its products for consumption on the fair premises and sell its products in original containers for consumption off of the fair premises (A.R.S. §4-203.03).

Direct Shipment License – Series 17

A direct shipment license allows an out-of-state distiller, vintner, brewer, rectifier, blender or other producer of spirituous liquor to take orders from retail customers by telephone, mail, catalog or the Internet. The orders must be shipped into the state to a licensed Arizona wholesaler. The wholesaler must sell the product to a licensed retailer. The retailer will deliver the spirituous liquor to the customer. The direct shipment license is valid for three years (A.R.S. §4-203.04)

On-Sale v. Off-Sale

Some liquor licensees are categorized as having off-sale and on-sale privileges.

An off-sale retailer is any person selling spirituous liquor in an established retail liquor store or any established retail store selling other commodities. The spirituous liquor must be sold in the original unbroken package and be taken away from the premises of the retailer for consumption off of the premises.

An on-sale retailer is any person selling spirituous liquor in the original container for consumption on or off the premises or in individual portions for consumption on the premises (A.R.S. §4-101).

Transferable Licenses

The bar (06), beer and wine bar (07) and liquor store (09) licenses are the only licenses that are transferable. These licenses may be transferred from one person to another, and from one location to another within the same county, provided such transfer meets the requirements on the original application. Any change in ownership of the business of a licensee, directly

or indirectly, as defined by rule is deemed a transfer (A.R.S. §4-203).

Quota Licenses

Bar (06), beer and wine bar (07) and liquor store (09) licenses have traditionally been known as quota licenses. This means that no “new” Series 06, 07 or 09 licenses were available. The license must be purchased privately and the price is based on availability in the county where the license is sought. Once a quota license has been purchased, the buyer must apply for a transfer to have the license put in his or her name, at the same or another location.

In 2005, changes were made to the distribution process for Department licenses. Laws 2005, Chapter 284, requires, instead of allows, the Department to issue new liquor licenses. For FY 2005-2006 through FY 2009-2010, the Department is required to issue a specified amount of bar (06), beer and wine bar (07) and liquor store (09) licenses each year dependent on the population of each county. After FY 2009-2010, the Department is required to issue one of each type of license for each additional 10,000 persons in a county. The population of a county is required to be based on Department of Economic Security population estimates as of July 1 of each year.

300 Foot Rule

Retail liquor licenses are prohibited from being issued if the retail premises, at the time of the original application, is within 300 horizontal feet of a church, school or a fenced recreational area adjacent to a school. This prohibition does not apply to a restaurant license, special event license, hotel-motel license, government license or the fenced playing area of a golf course (A.R.S. § 4-207).

If a liquor license is validly issued for a premises and, on the date an application is filed for a transfer for the premises, it is within 300 feet of a school, church or fenced recreational area, the license may be transferred person to person (A.R.S. § 4-207).

A person may also be issued a license of the same class for a premises that has a nontransferable license if, on the date of application for a license on the same premises, it is within 300 feet of a church, school or fenced recreational area (A.R.S. § 4-207).

If a beer and wine store license is validly issued for a premises and, on the date an application is filed for a liquor store license for the premises, it is within 300 feet of a school, church or fenced recreational area, the liquor store license may be issued (A.R.S. § 4-207).

LIQUOR LICENSES CHART

The chart to the right illustrates each of the 17 different series of Arizona liquor licenses, whether the license has on sale or off sale privileges and whether the license is transferable.

ADDITIONAL RESOURCES

- Arizona Department of Liquor Licenses and Control (Phoenix Office)
800 W. Washington, 5th Floor
Phoenix, AZ 85007
602-542-5141
email: liqr@azll.com
www.azll.com
- Arizona Department of Liquor Licenses and Control (Tucson Office)
400 W. Congress, #521
Tucson, AZ 85701
520-628-6595
- Arizona Department of Liquor Licenses and Control Statutes: Arizona Revised Statutes, Title 4
- “Arizona Department of Liquor Licenses and Control,” Office of the Auditor General, November 1998, Report No. 98-20

Series	Type	Retail Sales	Transferable
01	In-State Producer		No
02	Out-of-State Producer		No
03	Domestic Microbrewery	On and Off Sale	No
04	Wholesaler		No
05	Government	On Sale	No
06	Bar	On and Off Sale	Yes
07	Beer and Wine Bar	On and Off Sale	Yes
08	Conveyance	On Sale	No
09	Liquor Store	Off Sale	Yes
10	Beer and Wine Store	Off Sale	No
11	Hotel-Motel	On Sale	No
12	Restaurant	On Sale	No
13	Domestic Farm Winery	On and Off Sale	No
14	Club	On Sale	No
15	Special Event	On Sale	No
16	Wine Festival/ Wine Fair	On and Off Sale	No
17	Direct Shipment		No